

EXHIBIT 8

Handwritten notes and signature

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re:

Wilbur Lynn McClore,

Petitioner,

On Habeas Corpus.

No. _____

Court of Appeal No. B195256

PETITION FOR REVIEW

After Decision by the Court of Appeal
Second Appellant District
Filed January 11, 2007

Wilbur Lynn McClore, C-50493
In Pro Per

P.O. Box 689, B-217L
Soledad, CA 93960-0689

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re:

No. _____

Wilbur Lynn McClore,

Petitioner,

On Habeas Corpus

Court of Appeal No. B 195256

PETITION FOR REVIEW

TO THE HONORABLE RONALD M. GEORGE, CHIEF JUSTICE, AND TO THE HONORABLE
ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Petitioner Wilbur Lynn McClore hereby petitions this Court for
review following the decision of the Court of Appeal, Second
Appellant District, filed January 11, 2007, denying the Petition
for Writ of Habeas Corpus. A copy of the decision is attached
hereto as Exhibit A.

QUESTIONS PRESENTED

1. Does the Board's decision violate Petitioner's right to due
process because the reasons are not supported by the record, and
effectively resentence Petitioner.

2. Does the Board's decision violate Petitioner's due process
because there is no evidence that indicates Petitioner's release
unreasonably endangers public safety?

3. Does the Board violate Petitioner's due process when the
Superior Court does not show Relevant and Reliable Evidence that
Petitioner is a current threat to public safety.

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NECESSITY OF REVIEW

A grant of review and resolution of these issues by this Court are necessary to secure uniformity of decision and to settle important questions of law. The need for uniformity of decision is demonstrated by a comparison for this case with the factually similar in *In re Ramirez* (2002) 94 Cal. App. 4th 549 and *Biggs v. Terhune* (9th Cir. 2003) 334 F. 3d 910, which both resulted in court findings opposite to what the Court decisions in Petitioner's case. Petitioner submits that viewing these cases together demonstrates a lack of uniformity in application of the due process/equal protection standard of the 5th & 14th amendment of the U.S. Constitution. The decision by the court of appeal in this case conflicts with other cases concerning crimes of kidnap and the due process standard set out by the Ninth Circuit Court of Appeals in *Biggs v. Terhune* (2003) 334 F.3d 910. This case also provides the Court with an opportunity to decide if by denying parole to 98% of appearing prisoners, the Board is following the mandate of penal code section 3041 (a) that parole "shall normally" be granted, as this court mandated in *In re Rosenkrantz*, supra, at 683, or does the Board's repeated denials of parole to 98% of appearing inmates reflect their factual bias against parole. And does the Executive Branch, past and present Governors refusal to adhere to the mandate that parole "shall normally" be granted further reflect an illegal policy in violation of the mandate of penal code section 3041 (a)?

In summary, Petitioner respectfully submits that in the instant matter, there is not "some evidence" having an "indicia of reliability" to support each of the Board's findings required by

1 the United States Constitution, Fifth and Fourteenth Amendments,
2 the California Constitution, Article I section 15, and Biggs v.
3 Terhune supra, (9th Cir 2003) 334 F. 3d 910.

4 ARGUMENT

5 On September 12, 2005, Petitioner appeared before the Board of
6 Prison Terms and was again found unsuitable for parole after
7 serving more than 18 actual years , without the benefit of good
8 time credits, based on unchanging factors, i.e., the circumstances
9 of the offense, prior history. Petitioner received a 1 year denial.

10 On October 23, 2006, the Los Angeles Superior Court denied
11 Petitioner's petition for the issuance of a writ of habeas corpus.
12 (See Exhibit "B", attached hereto) Petitioner then filed a petition
13 for writ of habeas corpus in the Second Appellant District. On
14 January 11, 2007, that Court denied the Petition. (See Exhibit "A",
15 attached hereto). On January 16, 2007, under the Mailbox Rule,
16 Petitioner delivered to prison officials, the instant petition for
17 review. The petition for review is timely.

18 The Board's Decision To Deny Parole Was Not Supported By Evidence
19 Having An "Indicia Of Reliability" That Petitioner Is Currently
An Unreasonable Risk or Threat To Society.

20 In Bigg, v. Terhune, supra, at p. 914 the Ninth Circuit Court of
21 Appeals held that "[b]ecause the California parole scheme [Penal
22 Code § 3041 (b))] vests in every inmate a constitutionally
23 protected liberty interest protected by the procedural safeguards
24 of the Due Process Clause, 'some evidence' having an 'indicia of
25 reliability' must underly every Board decision." The Biggs Court
26 then proceeded to establish a Federal standard for the California
27 Board of Prison Terms to follow when assessing the facts before it
28 during a parole consideration hearing. Biggs 334 F. 3d at 919

1 concludes that although a commitment offense can provide some
2 evidence to justify the initial denial of a parole date, subsequent
3 denials in the face of exemplary behavior and overwhelming evidence
4 of rehabilitation raises serious questions involving Petitioner's
5 liberty interest in parole. Petitioner submits the Board's
6 refusals to grant a parole date and repeated failure to provide
7 post-commitment support for its decisions have violated
8 petitioner's liberty interest and due process rights. And the time
9 already served is in gross excess of the established guidelines
10 [Matrix, 15, CCR § 2403 (c)], for Petitioner's commitment offense,
11 and for the Board to continue to incarcerate Petitioner is a clear
12 violation of his Federal Due Process Rights.

13 Petitioner submits the mandatory language of P.C. § 3041 (b)
14 imposes an affirmative obligation by the Board to grant parole,
15 which presumption that parole release will be granted if certain
16 conditions are met. McQuillion v. Duncan (9th Cir. 2002) 306 F. 3d
17 895, 901-902; Biggs v. Terhune (9th Cir. 2003) 334 F 3d 910.
18 Petitioner submits he has met those conditions.

19 Petitioner respectfully submits that in accordance with the
20 recently announced Federal standard, this Court should grant review
21 to come into compliance with Federal law.

22 The Board of Parole Hearing Has An Anti-Parole Policy Or Policy
23 Of Demonstrating Systematic Bias, Or Policy Of Underinclusion In
24 Their Decision Making By Denying Grants To Parole To 98% Of
Appearing Inmates. To The "Shall Normally" Grant Parole As
Mandated By The Legislature When It Enacted Penal Code Section
3041 (a).

25
26 Petitioner respectfully submits that a review of the available
27 state government statistical data, which can be provided if
28 requested, will demonstrate the Boards, past and present, denied

1 parole to 99% to prisoners in violation of penal code section 3041
 2 (a), as this court mandated in In re Rosenkrantz, supra, 29 Cal.
 3 4th at 6893, in violation of the recently announced Federal
 4 standard set out by the Ninth Circuit Court of Appeals in Biggs v.
 5 Terhune, supra, at 916-917.

6 In this case, Petitioner submits the Board affected its desired
 7 result by "simply identifying 'some evidence' from the record to
 8 support [the] desired result," ignoring the principles outlined in
 9 In re Ramirez, supra, at P. 536-564 and 571, and Biggs supra, at
 10 pp. 916-917. These facts do not and can not demonstrate that
 11 Petitioner is currently an unreasonable threat to public safety if
 12 released. The hearing was a sham and a farce.

13 Petitioner submits he did not receive a fair parole hearing
 14 because the hearing results reflect the Board's systematic bias
 15 against granting parole. The hearing was adjudicated in pro
 16 forma, violating Petitioner's state and federal due process rights,
 17 depriving petitioner of his federally protected liberty interest of
 18 due process and equal protection under the fifth and fourteenth
 19 amendments of the U.S. Constitutions and similar provisions under
 20 the California Constitution and equal protection, to be released on
 21 parole.

22 CONCLUSION

23 For the above reasons, Petitioner respectfully submits this court
 24 grant review, to insure uniformity of decision making as mandated

25 in In re Ramirez, supra, and this court in In re Rosenkrantz,
 26 supra, and the Ninth Circuit Court of Appeals standard set out in
 27 Biggs v. Terhune supra.

28 Date: 1-23-2007

Respectfully Submitted;

S. Wilbur Lynn McClore
 Wilbur Lynn McClore, Petitioner
 In Pro Per

EXHIBIT “A”

Wilbur Lynn McClore
C-50493
Correctional Training Facility
P.O. Box 686
Soledad, CA 93960

Case Number B195256
Division 3
In re W. Lynn McClore
on
Habeas Corpus

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

COURT OF APPEAL - SECOND DIST.
FILED
JAN 11 2007
JOSEPH A. LANE Clerk
V. GRAY Deputy Clerk

In re

Wilbur Lynn McClore,

on

Habeas Corpus.

B195256

(Los Angeles County
Super. Ct. No. BH003866)
(Steven Van Sicklen, Judge)

ORDER

BY THE COURT:

The petition for writ of habeas corpus, filed December 4, 2006, has been read and considered and is denied. (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1070-1095; *In re Rosenkrantz* (2002) 29 Cal.4th 616, 676-677.)

EXHIBIT "B"

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: OCTOBER 23, 2006

Honorables: STEVEN R. VAN SICKLEN
NONEJudge J. PULIDO
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH003866

In re,

W. LYNN McCLORE,

Petitioner,

On Habeas Corpus

Counsel for Respondent:

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The Court has read and considered petitioner's Writ of Habeas Corpus filed February 7, 2006. Having independently reviewed the record, giving deference to the broad discretion of the Board of Prison Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that petitioner is unsuitable for parole. (See Cal. Code Regs., tit. 15, § 2402; *In re Rosenkrantz* (2002) 29 Cal. 4th 616, 667 (hereafter *Rosenkrantz*)).

Petitioner was received into custody on December 6, 1987 and is serving a term of life plus one year with a minimum parole eligible date of April 5, 1993. Petitioner was convicted of kidnap for robbery, in violation of Penal Code section 209. The record reflects that on November 25, 1985, petitioner's crime partner approached the victim who was about to get out of her car and demanded her purse and money. Petitioner and his crime partner forced the victim into her car and then drove her to two stores where they forced her to buy shoes and clothing for them. After several hours, they released her on the side of a freeway.

The record reflects that the Board found petitioner unsuitable for parole after a parole consideration hearing held on September 12, 2005. Petitioner was denied parole for one year. The Board concluded that Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society and a threat to public safety if released from prison. There is some evidence that petitioner is unsuitable due to petitioner's 115 disciplinary violation for an assault and battery causing great bodily injury in 1994. (See Cal. Code Regs., tit. 15, § 2402(c)(6).)

The Board may find petitioner suitable if he shows that he understands the nature and magnitude of the offense. (See Cal. Code Regs., tit. 15, § 2402, subd. (d)(3).) The Court finds that there is some evidence to support the Board's finding that petitioner lacks "insight as to why you were doing the things you were doing or into how your crimes affected other people." The Board recommended that petitioner review his entire central file so he could return to his subsequent hearing prepared to discuss any insight he has developed as to his past and present attitude towards the crime.

The record further reflects that the Board also relied on the fact that prior panels from petitioner's last five hearings noted in their decisions that petitioner has had temper tantrums, fits, and arguments with the panel. Petitioner's inability to control his anger during these hearings is information which bears on and contributes to a pattern which results in a finding of unsuitability. (See Cal. Code Regs., tit. 15, § 2402, subd. (b).) The Board

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: OCTOBER 23, 2006

Honorable: STEVEN R. VAN SICKLEN

Judge J. PULIDO

Deputy Clerk

NONE

Bailiff NONE

Reporter

(Parties and Counsel checked if present)

BH003866

In re,

W. LYNN McCLORE,
Petitioner,

On Habeas Corpus

Counsel for Respondent:

was acting within its authority when it considered petitioner's various preconviction and post conviction factors, yet concluded that he would pose an unreasonable threat to public safety. (See Penal Code § 3041, subd.(b).)

Therefore, the petition is denied.

The court order is signed and filed this date.

A true copy of this minute order is sent to the petitioner via U.S. Mail as follows:

W. Lynn McClore
C-50493
Correctional Training Facility
P.O. Box 689
Soledad, CA 93960-0689

THE DOCUMENT TO WHICH THIS CERTIFICATE IS
ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE :

ATTEST

10-27-06

JOHN A. CLARKE,

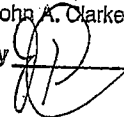
Clerk/Executive Officer of the Superior
Court of California, County of Los Angeles.

BY

Joseph M. Pulido

, DEPUTY

JOSEPH M. PULIDO, S.C.C.
233219

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File-Stamp CONFORMED COPY OF ORIGINAL FILED Los Angeles Superior Court OCT 27 2006 John A. Clarke, Executive Officer/Clerk By  Deputy
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012		
PLAINTIFF/PETITIONER: W. LYNN McCLORE		
CLERK'S CERTIFICATE OF MAILING CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		CASE NUMBER: BH003866

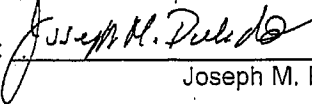
I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- | | |
|--|---|
| <input type="checkbox"/> Order Extending Time | <input type="checkbox"/> Order re: Request for Extension of Time |
| <input type="checkbox"/> Order to Show Cause | <input checked="" type="checkbox"/> Order re: Writ of Habeas Corpus |
| <input type="checkbox"/> Order for Informal Response | <input type="checkbox"/> Order re: |
| <input type="checkbox"/> Order for Supplemental Pleading | <input type="checkbox"/> Copy of |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

October 27, 2006
 DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By:  Clerk
 Joseph M. Pulido

W. Lynn McClore
 C-50493
 Correctional Training Facility
 P.O. Box 689
 Soledad, CA 93960-0689

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY**
(C.C.P. §§ 1013(A), 2015,5)

I, W. Lynn McClore, declare:
I am over 18 years of age and I am party to this action. I am a
resident of CORRECTIONAL TRAINING FACILITY prison, in the County
of Monterrey, State of California. My prison address is:

W. Lynn McClore, CDCR #: C 50493
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: B-217
SOLEDAD, CA 93960-0689.

On 1-23-2007, I served the attached:

Petition For Review

on the parties herein by placing true and correct copies
thereof, enclosed in a sealed envelope (verified by prison
staff), with postage thereon fully paid, in the United States
Mail in a deposit box so provided at the above-named institution
in which I am presently confined. The envelope was addressed as
follows:

Supreme Court of California
Clerk of the Court
350 McAllister Street
SAN FRANCISCO, CA 94102-4797

Terry Brown
Attorney General
P.O. BOX 85266
SAN Diego, CA
92186-5266

I declare under penalty of perjury under the laws of the
State of California that the foregoing is true and correct.

Executed on 1-23-2007.

W. Lynn McClore
Declarant

OFFICE OF THE ATTORNEY GENERAL
STATE OF CALIFORNIA
SAN DIEGO

Enclosed for the Honorable Judge [Name] is a copy of the [Document Name] filed in Case No. [Case Number] on [Date]. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

I am enclosing a copy of the [Document Name] for the Honorable Judge [Name] as a courtesy. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

I am enclosing a copy of the [Document Name] for the Honorable Judge [Name] as a courtesy. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

ATTORNEY GENERAL
SAN DIEGO
2007 JAN 26 AM 9:39

I am enclosing a copy of the [Document Name] for the Honorable Judge [Name] as a courtesy. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

I am enclosing a copy of the [Document Name] for the Honorable Judge [Name] as a courtesy. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

I am enclosing a copy of the [Document Name] for the Honorable Judge [Name] as a courtesy. The [Document Name] is a [Description of Document] and is being filed for the purpose of [Purpose].

1 P.O. Box 689
2 Soledad, California 93960
3 In Propria Persona
4
5
6
7

8 IN THE CALIFORNIA SUPREME COURT
9

10 In re
11 Wilbur Lynn McClore,
12 On Habeas Corpus

Case Number
[MOTION] APPLICATION FOR
RELIEF FROM DEFAULT

13
14
15 TO THE HONORABLE RONALD GEORGE, CHIEF JUSTICE OF THE CALIFORNIA
16 CALIFORNIA SUPREME COURT AND ASSOCIATE JUSTICES:

17 PLEASE TAKE NOTICE that the Petitioner in the above entitled
18 mattter respectfully submit an application for relief from default.

19 //

20 //

21 //

22 //

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24 /

25 //

26 //

27 //

28 //

GOOD CAUSE EXIST FOR APPLICATION FOR RELIEF FROM DEFAULT

Petitioner, contends good cause exist for application for relief from default in light of the fact that: although, the court of appeal filed its order on January 11, 2007, denying relief, that the last day a timely petition for review could have been filed was January 21, 2007, Petitioner contends due to the Correctional Training Facility, Soledad California where the Petitioner is currently confined for the past two weeks and due to prison overcrowding the fact that Petitioner must compete with over three-thousand inmates for the limited access to the prison library (two-out-of-six days the prison law library is open for business) prevented petitioner from filing a timely Petition For Review in the above entitled matter.

I, Wilbur Lynn McClore, Petitioner in the above entitled matter declared under penalty of perjury that the above statements is true and correct.

Excuted this date 1-23-2007

Respectfully submitted

Wilbur Lynn McClore

Petitioner

In Propria Persona